

ELEMENT 9

The process of determining the priority of permit issuance

Summary – Missouri Clean Water Law, Section 644.051 RSMo. establishes timelines for the Missouri Department of Natural Resources (the department) to render a decision regarding permit applications. Site-specific permits must be either issued or denied within 180 days of the receipt of an application. The timeline is 60 days for 401 certifications and general permits that do not require a public notice. This section also requires the commission to promulgate rules by Dec. 31, 2001, that specify shorter times where appropriate. The department must return application fees when these deadlines are not met. The department or the applicant may appeal to the commission to resolve fee disputes. Also a semi-annual report to the commission on permitting actions is required. Both general and site-specific operating permits are issued for a maximum of five years.

General permits are state operating permits, or National Pollutant Discharge Elimination System (NPDES) permits for categories of facilities with similar characteristics. Site-specific operating permits are state operating permits for facilities that do not fall within any of the existing general categories. The regional offices review permit applications for general permits which pertain primarily to non-storm water related requirements. The department reviews applications pertaining to new general permits primarily regarding storm water requirements effective in 1992. Site-specific permits are reviewed upon application for renewal. Construction permits and first-time operating permits are not issued until an applicant provides proof to the department that a permanent organization exists that will serve as the continuing authority for the facility. Continuing authorities are listed in preferential order in the state's permit rules. This list in the permit rules in effect provides the ranking mechanism for permit issuance. Public notices are prepared allowing for a public comment period of 30 days.

Permit Timelines

Missouri Clean Water Law Section 644.051 RSMo establishes timelines for the Department of Natural Resources to render a decision regarding permit applications. Site-specific permits must be either issued or denied within 180 days of the receipt of an application. The timeline is 60 days for 401 certifications and general permits that do not require a public notice. This section also requires the commission to promulgate rules by December 3, 2001, that specify shorter times where appropriate. The department must return application fees when these deadlines are not met. The department or the applicant may appeal to the commission to resolve fee disputes. Also a semi-annual report to the commission on permitting actions is required.

General Permits

A general permit is a water pollution control operating permit for categories of facilities with similar characteristics, such as those wastewater treatment facilities serving less than 150 people. Each general permit has a standard set of permit conditions developed by the Department of

Natural Resources. One notice is issued for the entire state to authorize these standard conditions. Public notice is not required for specific facility locations.

For a general permit to be written for a specific type of operating permit, a request should be submitted to the department to develop one. That request is generally initiated by an organization on behalf of a group of industries. Organizations interested in submitting a petition request for development of a general permit should contact the department Water Pollution Control Program permitting section for the information that is needed.

A general permit is issued in the name of the qualified applicant. A flat permit fee is required. Applications are processed in about two weeks. A general permit is required for each operating location.

General and site-specific operating permits are issued for a maximum of five years. Application for renewal must be submitted at least 180 days before the renewal date. Prior to receiving a site-specific permit renewal, a new public notice is required for each operating location.

Department staff must be allowed to inspect records for at least five years after permit issuance. Businesses must submit calendar year reports to the department in January. Reports forms are provided by the department and are approved for use by the U.S. Environmental Protection Agency (EPA). This means that Missouri permit holders may use the same form for reporting to both the department and EPA.

Site-Specific Permits

Many permits are written to be site-specific permits due to the nature of the wastewater stream, also called the receiving stream. These permits usually have a five-year cycle. The issuance of permits to build, erect, alter, replace, operate, use or to operate and maintain an existing point source of water pollution from domestic and industrial facilities are written as site-specific permits. Many of the permits are for the discharge of treated wastewater from domestic and industrial facilities. On the other hand, permits for land disturbance or storm water are general permits that are issued together with site-specific conditions that must be adhered to. Many of our permits are issued for land application for wastes from domestic, industrial and agricultural facilities with certain requirements for regular sampling of wastewater at the discharge points. Land application permits specify the methods by which wastes are handled and disposed. Permits also specify Water Quality Standards for discharges.

Regional Offices

The regions will review permit applications for general permits that pertain primarily to non-storm water related requirements even though some storm water outfalls are also included.

The regional offices conduct pre-application meetings, site visits and research. The Planning and Enforcement sections coordinate a technical review of the application when it's received with proper forms and fees. A preliminary draft is sent to the central office in Jefferson City, where it is reviewed for completeness and accuracy.

The central office prepares an electronic copy of the draft operating permit. A water quality review sheet and fact sheet are prepared for major facilities only. A final draft permit is coordinated with the completion of the associated Construction Permit.

Regional offices and staff are key components of the department. Their proximity to affected areas; rapport with local governments, citizens and industry; plus overall knowledge of local conditions adds critical information to the water pollution control effort throughout the state.

Regional offices respond to requests from the regulated community, the general public and the media. These may include telephone conversations, office discussions, or speeches or meetings with the public or private groups regarding topics of a general nature, such as requests for specific information on treatment facility operations, or concerns about specific water bodies.

Regional offices receive and review permit applications for first time permits (i.e. from new construction), provide appropriate response of comment to applicant, draft individual state permits or permit denials for all facilities in accordance with the permit manual. Various responsibilities include permit transfers, modifications and terminations, site visits to facilities, drafting of construction permits, assisting with public notice activities and responding to comments as necessary. Other activities include collection of permit fees for construction and first-time operating permits. Permit renewals are handled in the central office.

The Water Pollution Control Program is developing procedures for drafting new and modified site-specific state operating permits through the use of an electronic template for transmitting final permit drafts to the central office through e-mail attachments. Electronic scans include the application (including all forms, maps and flow charts), a completed transmittal sheet, the draft permit, fact sheet, water quality review sheet and draft responses to the public comments.

Central State Offices

The department reviews applications pertaining to new general permits that pertain primarily to storm water requirements effective in 1992, though some process wastes may also be included. The program will also review applications for general permits that require special coordination with other central office programs, such as abandoned mine land reclamation projects, fuel spill cleanups, underground storage tank pits and waste compost.

The regions review permit applications for general permits that were originally developed prior to storm water regulations effective in 1992.

Complaint investigations remain regional office activities for all permits (See Section II).

Permit Renewals

A letter and application are sent from the department to the permittee with notice that the application for renewal must be submitted 180 days prior to the expiration date on the current permit. The application is reviewed on the basis of the Water Quality Information System five-year report information on effluent data and non-reporting violations as well as any inspections or enforcement actions, or water quality assessments. Permitting staff attempt to determine whether or not a 303(d) water quality-impaired receiving stream has been affected. Regional

permit writers are notified and review the summarized monthly data reports. Permits are entered into the Permit Action Management System tracking system for access to the status of the application during the renewal process.

Public Notice

All permits are placed on public notice. A public comment period runs for 30 days. A public meeting is held if the permit is of significant interest, reflected in widespread public comment with the potential for new information with technical merit for issues relevant to the Clean Water Commission authority. If the permit impacts a large group of people then a public meeting is held. If these conditions do not exist, then the permit is forwarded to the central office permit writer.

General permits having a five-year cycle are not usually put on public notice, but there are some exceptions. For instance, the first-time issuance of a general permit for a Concentrated Animal Feeding Operation (CAFO) is put on public notice. General permits for airports, chemical manufacturing plants, fabricated structured metal plants, foundries, limestone and rock quarries, lubricant manufacturing plants, petroleum storage facilities greater than 50,000 gallons and wood treaters are required to be placed on public notice prior to issuance for a specific facility.

Site-specific permits are also put on public notice. Site-specific permits usually have a five-year cycle and are placed on public notice for 30 days. Also, as one of these site-specific permits expires, it is re-drafted, modified, if needed, and placed on public notice for 30 days. A group of permits are processed for public notice every two weeks. When the 30-day notice period expires, comments are reviewed, and the permit is issued with needed changes. These permits are modified and put on public notice again if comments are significant. Sometimes permits are re-drafted to resolve major concerns.

The department is posting draft, site-specific, permits on the Internet as a means to increase the availability of this information. Comments on the posted permits may be made as described in the public notice until the department can process them electronically. Permits will be placed on this site for permanent public access as they are listed for public and final notice.

When there is no new public notice required, responses to comments are prepared. If the department's Water Protection and Soil Conservation Division (previously the Division of Environmental Quality) is required to review the permit and concurs, a notice is given to the regional office to issue a construction permit. The construction permit is then issued.

If there are major modifications to the operating permit, the process begins again from the beginning. If there are only minor modifications, the operating permit may be issued.

In the event that the Water Protection and Soil Conservation Division decides to deny the operating permit, the division will issue a permit denial or an abatement order. If denied by the division, the Clean Water Commission denies the permit.

Whenever a permit is appealed, the department requests legal representation through the state Attorney General's Office and initiates Hearing Officer selection. The Attorney General's

Office may decide to negotiate terms in the permit. If a settlement is not reached, an adjudicatory hearing is held. After this, the Hearing Officer makes a recommendation to the Clean Water Commission to deny or to issue the permit with modifications. If approved by the Clean Water Commission, the permit may be issued as public noticed.

Please see the Review of Site Specific Construction and Operating Permits and the Public Involvement charts in the Appendix F.

References

Missouri Clean Water Law Section 644.021, Powers and Duties of the Commission, Section 644.036, Public Hearings, Section 644.066, Public Hearings, how conducted, Section 644.116, Rules and Regulations, Section 644.141, Planning Authority, B. Management Authority, C. Interstate Agencies, D. Termination of Authority; and the department's rules, Section 6, Permits.